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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,593	02/26/2002	Alpesh B. Oza	42P13679	7087

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

EXAMINER

ALAM, SHAHID AL

ART UNIT	PAPER NUMBER
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2162

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/085,593

Applicant(s)

OZA ET AL.

Examiner

Shahid Al Alam

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 May 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119


- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.


SHAHID ALAM
PRIMARY EXAMINER

DETAILED ACTION

1. Claims 1 – 28 are pending in this Office action.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 - 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "A method" in claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 16 recites the limitation "An apparatus" in claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 21 recites the limitation "A article of manufacture" in claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1 - 28 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

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MPEP 2106 IV.B.2.(b)

A claim that requires one or more acts to be performed defines a process. However, not all processes are statutory under 35 U.S.C. 101. *Schrader*, 22 F.3d at 296, 30 USPQ2d at 1460. To be statutory, a claimed computer-related process must either: (A) result in a physical transformation outside the computer for which a practical application in the technological arts is either disclosed in the specification or would have been known to a skilled artisan, or (B) be limited to a practical application within the technological arts.

Claims 1 - 28, in view of the above-cited MPEP sections, are not statutory because they merely recite a number of computing steps without producing any tangible result and/or being limited to a practical application within the technological arts. The use of a computer has not been indicated.

These claim do not indicate use of hardware on which the software runs to perform the steps recited in the body of the claim. Software or program can be stored on a medium and/or executed by a computer. In other words the software must be computer-readable. The use of a computer is not evident in the claim. MPEP 2106.IV.B.1(a) refers to "computer-readable" medium with computer program encoded on it."

Specification

4. The abstract of the disclosure is objected to because the abstract is not descriptive.

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Correction is required. See MPEP § 608.01(b).

5. The disclosure is objected to because of the following informalities:

The summary of the invention is not in the specification.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1 – 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,304,866 issued to Jyh-Herng Chow et al. (hereinafter "Chow") and in view of Applicant's Admitted Prior Art (hereinafter "APA").

With respect to claim 1, Chow teaches a method for dividing a data table into parts (column 8, lines 21 – 30 and column 9, lines 6 – 8); distributing data entries in the table arranged in an order to provide periodic empty data entry spaces in each part (column 9, lines 6 – 25); and redistributing data entries in only a part of the table in which an amount of data entries in the part is changed in order to maintain the order of

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the table without redistributing all the data entries in the table (column 7, lines 31 – 48 and column 8, lines 5 – 20).

Chow does not explicitly teach arrangement of data in the table as claimed. APA discloses the table entries are sorted in ascending/descending alphanumeric order (see Background on paragraph [002]).

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to combine APA with the teaching of Chow to guide a multiprocessing system to performing an aggregate task as quickly as possible, with minimum workload skew among independently operating processing elements (column 2, lines 42 – 44; Chow).

As to claim 2, changing the amount of data entries includes one of inserting and deleting a data entry (APA; [003]).

As to claim 3, the order is a logical ascending and/or descending order of the entries and a logical origin is assigned to the logically first entry in each part to find the entries in each part regardless of the position of one or more empty spaces in each part (APA: [003]).

As to claim 4, the distributing data entries includes moving data entries between parts of the table to maintain a substantially even distribution of the data entries and a substantially even distribution of the empty data entry spaces in each of the parts of the table and reassigning the logical origin of a part to a new logically first entry in the part (column 8, lines 38 – 51 and column 8, lines 20 – 25; Chow).

As to claim 5, the distributing data entries are performed substantially continuously (column 9, lines 20 – 21).

As to claims 6, 7 and 8, using a balancing engine for the distributing data entries; using a lookup engine to determine a part of the table having a data entry and using an entry engine to send a data entry key to the lookup engine and receive from the lookup engine a number of a part of the table having the location of the data entry (column 3, lines 50 – 63 and column 8, lines 31 – 51).

As to claim 9, the entry engine reads the part of the table corresponding to the number, sorts the entries in the part using one or more empty data entry spaces, and writes the sorted entries back into the part of the table column 7, lines 19 – 23 and column 9, lines 6 – 21).

Claims 16 – 20 are essentially the same as claims 1 – 9 except that it sets forth the claimed invention as an apparatus rather than a method and rejected for the same reasons as applied above.

Claims 21 – 28 are essentially the same as claims 1 – 9 except that it sets forth the claimed invention as an article of manufacture rather than a method and rejected for the same reasons as applied above.


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Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shahid Al Alam whose telephone number is (571) 272-4030. The examiner can normally be reached on Monday-Thursday 8:00 A.M.- 4:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Shahid Al Alam
Primary Examiner
Art Unit 2162

21 February 2005